

Attorney Docket No. P13966-US2
Customer Number 27045

REMARKS/ARGUMENTS

1.) Claim Amendments

The Applicants have amended claims 1, 2, and 33. Claims 12 and 39 were previously canceled. Accordingly, claims 1-11, 13-38, and 40-57 are pending in the application. Favorable reconsideration of the application is respectfully requested in view of the foregoing amendments and the following remarks.

2.) Claim Rejections – 35 U.S.C. § 102(e)

In paragraph 2 of the Office Action, the Examiner rejected claims 1-3, 5, 6, 8, 19, 21, 24-26, 28-33, 35-37, 47-51 and 53-55 under 35 U.S.C. § 102(e) as being anticipated by Hunzinger, et al. (US 6,748,217). In the Examiner's argument, he equated the Applicants' "combined requirements including service and application requirements of a service and application requested by the communication device" with Hunzinger's "service availability". The Applicants disagree that even the broadest interpretation of "combined requirements including service and application requirements of a service and application requested by the communication device" can read on "service availability". These are two entirely different things. Service availability is a function of network traffic level and whether a channel is available at a particular access point. Service and application requirements, on the other hand, relate to quality of service and connection transport capabilities that a particular access point can provide, not whether a channel is available at the particular access point. Note that in Applicants' FIG. 2, step 220 obtains information regarding service availability, while step 230 obtains the combined requirements of the communication device. Thus, it is clear in the description that these are different kinds of information.

The Applicants have further amended claims 1 and 33 to recite that the combined requirements of the communication device include *quality of service requirements and connection transport requirements* of a service and application requested by the communication device. No reading of this limitation can possibly be equated with the "service availability" of Hunzinger. Basis for the amendment is found

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in the description on page 4, lines 5-8 and page 9, lines 14-18. Therefore, the withdrawal of the rejection of claims 1 and 33 under § 102(e) is respectfully requested.

Claims 2-3, 5, 6, 8, 19, 21, 24-26, and 28-32 depend from amended claim 1 and recite further limitations in combination with the novel elements of claim 1. Therefore, the allowance of claims 2-3, 5, 6, 8, 19, 21, 24-26, and 28-32 is respectfully requested.

Claims 35-37, 47-51 and 53-55 depend from amended claim 33 and recite further limitations in combination with the novel elements of claim 33. Therefore, the allowance of claims 35-37, 47-51 and 53-55 is respectfully requested.

3.) Claim Rejections – 35 U.S.C. § 103(a)

In paragraph 20 of the Office Action, the Examiner rejected claims 4, 7, 9, 20, 22 and 34 under 35 U.S.C. § 103(a) as being unpatentable over Hunzinger in view of Harris, et al. (US 6,331,972). The Examiner cited Harris for showing a personal area network. However, even if Harris shows a personal area network, Harris does not overcome the deficiency of Hunzinger because neither Hunzinger nor Harris teach or suggest a method of selecting an access point based on the position of the communication device, the availability of the access points, and combined requirements of the communication device, including quality of service requirements and connection transport requirements of a service and application requested by the communication device. Therefore, the allowance of claims 4, 7, 9, 20, 22 and 34 is respectfully requested.

In paragraph 22 of the Office Action, the Examiner rejected claims 10, 11, 15, 16, 18, 27, 38, 41-44 and 46 under 35 U.S.C. § 103(a) as being unpatentable over Hunzinger in view of Agre. However, like Hunzinger, Agre does not teach or suggest a method of selecting an access point based on the position of the communication device, the availability of the access points, and combined requirements of the communication device, wherein the combined requirements include quality of service requirements and connection transport requirements of a service and application requested by the communication device. Agre selects a preferred service provider based on availability of the service provider and a confidence factor. The confidence factor relates to the reliability or accuracy of the location information for the subscriber unit. (Col 5, lines 22-

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24; FIGS. 3A & 3B). However, this does not equate to the Applicants' step of selecting an access point based on combined requirements that include quality of service requirements and connection transport requirements of a service and application requested by the communication device. Agre further discloses that a negotiation may be conducted with the subscriber unit for the selection of a service provider if more than one service provider is available. (Col. 6, lines 16-25). However, the negotiation process described in Agre merely provides a list of available service providers to the subscriber unit and lets the subscriber unit select one. There is no disclosure or suggestion of an access point being selected based on the position of the communication device, the availability of the access points, and combined requirements of the communication device, wherein the combined requirements include quality of service requirements and connection transport requirements of a service and application requested by the communication device. Therefore, the withdrawal of the rejection under § 103(a) and the allowance of claims 10, 11, 15, 16, 18, 27, 38, 41-44 and 46 are respectfully requested.

In paragraph 28 of the Office Action, the Examiner rejected claims 14, 17, 23 and 45 under 35 U.S.C. § 103(a) as being unpatentable over Hunzinger in view of Agre, and further in view of Harris. As noted, however, the combination of Hunzinger, Agre and Harris fails to teach or suggest a method in which an access point is selected based on the position of the communication device, the availability of the access points, and combined requirements of the communication device, wherein the combined requirements include quality of service requirements and connection transport requirements of a service and application requested by the communication device. Therefore, the withdrawal of the rejection under § 103(a) and the allowance of claims 14, 17, 23 and 45 are respectfully requested.

In paragraph 30 of the Office Action, the Examiner rejected claims 12, 13, 39 and 40 under 35 U.S.C. § 103(a) as being unpatentable over Hunzinger in view of Agre, and further in view of Pinard. The Examiner pointed to column 6, lines 52-57 of Pinard for showing a method of selecting access points based on service/application requirements of the communication device. The Applicants respectfully disagree. As noted in Applicants' previous response, Pinard seems to select access points based on signal

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strength (RSSI) and to maximize the data throughput. (Col. 2, lines 41-43; col. 5, line 62 to col. 6, line 19; FIG. 5). Pinard maximizes the throughput by selecting the access point with the lowest load factor. (Col. 6, lines 20-35). This process is entirely different from the Applicants' claimed invention. At the very least, the steps of "determining combined requirements of the communication device" and "mapping the information related to the available access points with the position and the combined requirements of the communication device to obtain mapped information" are not taught or suggested by Pinard.

In the passage cited by the Examiner, Pinard states that if a mobile is experiencing an unsatisfactory connection (for example too many errors) through a particular access point, the mobile will re-associate with a different access point, and the access point providing the poor communications will be excluded from the list of available access points. Again, this is quite different from the claimed method of considering quality of service requirements and connection transport requirements of a service and application requested by the communication device when selecting an access point. Therefore, the withdrawal of the rejection under § 103(a) and the allowance of claims 12, 13, 39 and 40 are respectfully requested.

In paragraph 33 of the Office Action, the Examiner rejected claim 52 under 35 U.S.C. § 103(a) as being unpatentable over Hunzinger in view of Vaara, et al. (US 6,321,083). The Examiner cited Vaara for showing a system that includes directions to a geographical area that is an intermediate position within communication range of at least two access points, which are to be used simultaneously. However, claim 52 depends from amended claim 33, and as discussed above, Hunzinger fails to teach or suggest the limitations of claim 33. Therefore, the combination of Hunzinger and Vaara does not teach or suggest the limitations of claim 52. Therefore, the withdrawal of the rejection under § 103(a) and the allowance of claim 52 are respectfully requested.

In paragraph 35 of the Office Action, the Examiner rejected claims 56 and 57 under 35 U.S.C. § 103(a) as being unpatentable over Grube, et al. (US 5,594,947) in view of Hunzinger. Grube discloses a method for providing alternative communication services that prevents a prohibited service from being offered in a given geographical area. However, Grube does not cure the deficiencies of Hunsinger, and the

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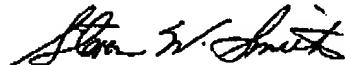
combination does not teach or suggest all of the limitations of claims 56, 57, base claim 33, and any intervening claims. Therefore, the withdrawal of the rejection under § 103(a) and the allowance of claims 56 and 57 are respectfully requested.

CONCLUSION

In view of the foregoing remarks, the Applicants believe all of the claims currently pending in the Application to be in a condition for allowance. The Applicants, therefore, respectfully request that the Examiner withdraw all rejections and issue a Notice of Allowance for claims 1-11, 13-38, and 40-57.

The Applicants request a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,



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